



General Assembly

January Session, 2007

Committee Bill No. 371

LCO No. 4989

04989SB00371LAB

Referred to Committee on Labor and Public Employees

Introduced by:
(LAB)

AN ACT CONCERNING WORKPLACE SAFETY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2007*) As used in this section
2 and sections 2 and 3 of this act:

3 (1) "Abusive conduct" means conduct or a single act of an employer
4 or employee in the workplace, with malice, that is unrelated to an
5 employer's legitimate business that a reasonable person would find
6 hostile or offensive considering the severity, nature and frequency of
7 the conduct or the severity and egregiousness of the single act.
8 Abusive conduct includes, but is not limited to, (A) repeated infliction
9 of verbal abuse such as the use of derogatory remarks, insults and
10 epithets; (B) verbal or physical conduct that a reasonable person would
11 find threatening, intimidating or humiliating; or (C) sabotaging or
12 undermining a person's work performance;

13 (2) "Abusive workplace" means a workplace where an employee is
14 subjected to abusive conduct that is so severe that it causes physical or
15 psychological harm to the employee;

16 (3) "Conduct" means all forms of behavior, including acts and
17 omissions of acts;

18 (4) "Constructive discharge" means abusive conduct (A) that causes
19 the employee to resign, (B) where, prior to resigning, the employee
20 brings to the employer's attention the existence of the abusive conduct,
21 and (C) the employer fails to take reasonable steps to eliminate the
22 abusive conduct;

23 (5) "Employee" means an individual who is employed by an
24 employer;

25 (6) "Employer" means any person, firm, business, educational
26 institution, nonprofit agency, corporation, limited liability company,
27 the state, any political subdivision of the state, any governmental
28 agency or any other entity that employs persons;

29 (7) "Malice" means the desire to see another person suffer
30 psychological, physical or economic harm, without legitimate cause or
31 justification that is displayed by the presence of factors such as
32 outward expressions of hostility, harmful conduct inconsistent with an
33 employer's legitimate business interests, a continuation of harmful,
34 illegitimate conduct after a person requests that it cease or
35 demonstrates outward signs of emotional or physical distress as a
36 result of the conduct, or attempts to exploit a person's known
37 psychological or physical vulnerability;

38 (8) "Negative employment decision" means a termination,
39 constructive discharge, demotion, unfavorable reassignment, refusal to
40 promote or disciplinary action;

41 (9) "Physical harm" means the material impairment of a person's
42 physical health or bodily integrity, as documented by a competent
43 physician or supported by competent expert evidence at trial; and

44 (10) "Psychological harm" means the material impairment of a
45 person's mental health, as documented by a competent psychologist,

46 psychiatrist or psychotherapist, or supported by competent expert
47 evidence at trial.

48 Sec. 2. (NEW) (*Effective October 1, 2007*) (a) No person shall:

49 (1) Subject an employee to an abusive workplace; or

50 (2) Retaliate in any manner against an employee because such
51 employee has made a charge that he or she has been subjected to an
52 abusive workplace under this section, or has testified, assisted or
53 participated in any manner in an investigation or proceeding under
54 this section or section 3 of this act, including, but not limited to, the
55 employer's internal investigations or proceedings, arbitration and
56 mediation proceedings and legal actions.

57 (b) An employer shall be in violation of this section if such employer
58 (1) subjects an employee to an abusive work environment, or (2) has
59 knowledge that any person has subjected an employee of such
60 employer to an abusive work environment and has failed to exercise
61 reasonable care to prevent and promptly correct the abusive conduct.

62 (c) It is an affirmative defense to an action brought against an
63 employer under this section that:

64 (1) The employer exercised reasonable care to prevent and promptly
65 correct the abusive conduct, and the aggrieved employee unreasonably
66 failed to take advantage of appropriate preventive or corrective
67 opportunities provided by the employer. Such defense is not available
68 when the abusive conduct culminates in a negative employment
69 decision;

70 (2) The complaint is based on a negative employment decision that
71 was made consistent with the employer's legitimate business interests,
72 such as a termination or demotion based on an employee's poor
73 performance; or

74 (3) The complaint is based on the employer's reasonable

75 investigation of potentially illegal or unethical activity.

76 Sec. 3. (NEW) (*Effective October 1, 2007*) (a) A violation of section 2 of
 77 this act may be enforced solely by a private right of action. Such action
 78 shall be commenced not later than one year after the last act that
 79 comprises the alleged abusive conduct.

80 (b) Where a defendant has been found to have subjected an
 81 employee to an abusive workplace in violation of section 2 of this act,
 82 the court may enjoin the defendant from engaging in the abusive
 83 conduct and may order any other relief that is deemed appropriate
 84 including, but not limited to, reinstatement, removal of the offending
 85 person from the complainant's work environment, back pay, front pay,
 86 medical expenses, compensation for emotional distress, punitive
 87 damages and attorneys' fees.

88 Sec. 4. (NEW) (*Effective October 1, 2007*) Nothing in section 2 or 3 of
 89 this act shall be deemed to exempt or relieve any person from any
 90 liability, duty, penalty or punishment provided by any other provision
 91 of the general statutes.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	New section
Sec. 2	<i>October 1, 2007</i>	New section
Sec. 3	<i>October 1, 2007</i>	New section
Sec. 4	<i>October 1, 2007</i>	New section

Statement of Purpose:

To provide a private right of action against workplace bullying.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

Co-Sponsors: SEN. COLAPIETRO, 31st Dist.

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